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## FACSIMILE

**Pages:** 14, including this cover page with Certificate of Fax Transmission.

**Date:** February 5, 2003

**Attention:** Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

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FAX No. (703) 308-4242

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### PETITION TO WITHDRAW HOLDING OF ABANDONMENT

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### CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-4242.

Date: \_\_\_\_\_

2/5/2003

Signature: \_\_\_\_\_

Cecil T. Pounders, Jr.

Cecil T. Pounders, Jr.

## PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Inventor: Cecil T. Pounders, Jr.

Application No.: 09/468,889

Art Unit: 1649

Filed: 12/22/99

Examiner: Kent Bell

Title: Ilex Hybrid Plant Named 'XIA YEN'

February 5, 2003

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

FAX No. (703) 308-4242

Dear Commissioner:

I was made aware of the fact that Application No. 09/468,889 was considered abandoned after contacting Examiner Bell by telephone on Feb 3, 2003. I had attempted to determine the status of the application by telephone on several previous occasions without success. The response to his request for corrections and clarifications was returned in a timely manner according to the listed deadline on Oct. 16, 2001 by Certified Mail with instructions to change my mailing **address for correspondence** to 15492 Village Drive, Biloxi, MS 39532 since I had moved. After the resubmission of the corrected document and drawings, I was aware of the fact that official mail to many government agencies was being held because of the anthrax problem. Your mailroom did not accept delivery of the documents until April 22, 2002. Please see attached photocopy of receipts. I was not aware of the need to attach an internal Certificate of Mailing to the documents therefore the reply must have been marked as delinquent and abandonment proceedings initiated. Due to my change of address no documents advising me of abandonment proceeding were delivered.

Due to the unusual conditions leading to this application being considered abandoned, I would like to have the circumstances leading to abandonment reviewed so the application can be reactivated for review of the proposed revisions so the patenting process can proceed.

Attachments include a Certificate of Fax Transmission, photocopies of certified mail receipts, the revised patent application (8 pages) as previously forwarded by certified mail as outlined above, and a new listing of responses to objections (record of previous listing not in my file). Due to the nature of drawings these will be forwarded latter as requested if damage occurred during irradiation. I look forward to a speedy resolution of this problem.

Sincerely yours,  
Cecil T. Pounders, Jr.

*Cecil T. Pounders, Jr.*

FILING RECEIPT



COASTAL RES&EXT CENTER  
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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRAWGS	TOT CL	IND CL
09/468,889	12/22/99	1649	\$240.00		1	1	1

CECIL T POUNDERS JR  
3140 OLD MOULTON RD SW  
DECATUR AL 35603

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the

IF REQUIRED, FOREIGN FILING LICENSE GRANTED 02/01/00 \*\* SMALL ENTITY \*\*  
TITLE  
ILEX HYBRID VARIETY NAMED XIA YEN

PRELIMINARY CLASS: PLT

DATA ENTRY BY: SCOTT, JOSEPH

TEAM: 03 DATE: 02/01/00

[illegible]

**(See resource for more important information)**

☐ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.  
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Wash DC 20231*

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 City, State, ZIP+4: *Wash DC 20231*

PS Form 3800, January 2001 See Reverse for Instructions

GULFPORT MS 39507  
 OCT 16 2001  
 STATION 1500

*Mailed Oct 16, 2001*

## RESPONSE TO OBJECTIONS

- A. Parentage is unknown other than as noted in paragraph 1 of page 2. Parentage on page 4 was changed to unknown.
- B. Comparison cultivars have been identified as patented or unpatented.
- C. Parental cultivars are unknown.
- D. Cuttings have been identified as soft-wood cuttings.
- E. The plant is being marketed as Dixie Star Holly and has been so noted.
- F. The wording has been changed as requested.
- G. The wording was changed as requested.
- H. The wording now used is "FIG" in both the text and on photographic illustrations.
- I. Wording has been inserted to indicate plants used for description were 7 years old.
- J. Botanical descriptions have been improved to the best of my knowledge.
- K. Measurement has been noted as length.
- L. Stem length, width, and internode length are under strong environmental control. Wording was changed to reflect this observation.
- M. Flower buds are not considered to be a significant ornamental attribute of holly and no variation for this trait is claimed. Buds are noted as being typical of *Ilex X attenuata*.
- N. Flowers are not considered to be a significant ornamental attribute of holly and no variation for this trait is claimed. Flowers are noted as being typical of *Ilex X attenuata*.
- O. Spelling has been changed.
- P. Petal color has been designated as applying to both surfaces.
- Q. The author feels the requested information would not differentiate 'Xia Yen' from the species as noted. No economic value of the clone can be attributed to the floral descriptions requested.
- R. The ultimate size is unknown and would be dependent on the growing environment.
- S. Wording has been changed to a more assertive statement.
- T. A sentence was inserted that claims no improved pest resistance.

V. A sentence equating environmental tolerance to *I. opaca* has been inserted.

U. "Known to me" has been inserted as requested.

The illustrations were remounted as requested.